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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,569	10/17/2003	Nancy Ann Wagner	0302-0100	2488
33939	7590	05/18/2006	EXAMINER	
NORA M. TOCUPS P.O BOX 698 140 PINECREST AVE DECATUR, GA 30030			COLLINS, MICHAEL	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/688,569

Applicant(s)

WAGNER ET AL.

Examiner

Michael K. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/27/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a first action on the merits of application 10/688,569.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

3. Claim 11 is objected to because of the following informalities: the applicant discloses, "the apparatus of Claim 1, wherein each coaster in the stack of coasters is substantially round and is substantially the same size of each other coaster in the stack of coasters." The word "of" should be "as". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3-4,7,11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Passetti (USP 6,722,526).

Regarding claim 1, Passetti discloses an apparatus to dispense coasters, the apparatus comprising:

- a housing for storing a stack of coasters (20)
- the housing having a dispensing aperture near the bottom of the housing (107)
- the dispensing aperture being of a size large enough to allow the bottom coaster of the stack of coasters to pass from the stack of coasters in the housing through the dispensing aperture of the housing to outside the housing (see column 4 lines 15-17)
- the housing having a pushing aperture (71) near the bottom of the housing with the pushing aperture being set opposite to the dispensing aperture, and with the pushing aperture being of a size large enough to allow access to the bottom coaster for pushing the bottom coaster towards the dispensing aperture of the housing (see Figures 1,2,4)
- whereby using the pushing aperture to access the bottom coaster from the stack of coasters so as to push the bottom coaster through the dispensing aperture results in dispensing of the bottom coaster from the housing (see column 6 lines 37-42)

Regarding claim 3, Passetti discloses the apparatus of Claim 1, wherein the dispensing aperture is large enough to allow only the bottom coaster of the stack of

coasters to pass from the stack of coasters in the housing through the dispensing aperture of the housing to the outside of the housing (see column 6 lines 37-42)

Regarding claim 4, Passetti discloses the apparatus of Claim 1, wherein the dispensing aperture is slightly wider than a diameter of the bottom coaster of the stack of coasters (see Figures 1-4).

Regarding claim 7, Passetti discloses the apparatus of Claim 1, wherein the stack of coasters is replenished by adding additional coasters to a top of the stack of coasters in the housing from the top of the housing (see column 4 lines 18-21).

Regarding claim 11, Passetti discloses the apparatus of Claim 1, wherein each coaster in the stack of coasters is substantially round and is substantially the same size as each other coaster in the stack of coasters (cookies and crackers are commonly round).

Regarding claim 13, Passetti discloses a method of storing and dispensing coasters, comprising:

- placing a plurality of coasters (197) in a housing (26) having a dispensing aperture near the bottom of the housing (107), and having a pushing aperture opposite (71) to the dispensing aperture and near the bottom of the housing
- using the pushing aperture (71) to access a bottom coaster of the plurality of coasters and to exert pressure on the bottom coaster to move the bottom coaster through the dispensing aperture (see column 6 lines 37-45)

6. Regarding the elements in the previous claims the MPEP states:

§ 2115 [R-2] Material or Article Worked Upon by Apparatus

MATERIAL OR ARTICLE WORKED UPON DOES NOT LIMIT

APPARATUS CLAIMS

"Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim." Ex parte Thibault, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims."

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 2,5-6, and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Passetti (USP 6,722,526) in view of Finkeltaub et al. (USP 6,279,776).

Regarding claim 2, Passetti discloses the apparatus of Claim 1. However, he does not disclose a housing comprising a cylindrical can. Finkleaub et al. discloses a housing comprising a cylindrical can for the purpose of easily removing articles from the apparatus (column 1 lines 22-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Passetti by including a housing comprising a cylindrical can, as disclosed by Finkleaub et al., for the purpose of easily removing articles from the apparatus.

Regarding claim 5, Passetti discloses the apparatus of Claim 1. However, he does not disclose the dispensing aperture to comprise an elongated half circle having a flat side and an arc side, wherein the flat side of the elongated half circle is perpendicular to a vertical axis of the stack of coasters in the housing, and wherein the flat side of the elongated half circle is slightly longer than a diameter of the bottom coaster of the stack of coasters. Finkleaub et al. discloses a dispensing aperture to comprise an elongated half circle (f) having a flat side and an arc side, wherein the flat side of the elongated half circle is perpendicular to a vertical axis of the stack of coasters in the housing, and wherein the flat side of the elongated half circle is slightly longer than a diameter of the bottom coaster of the stack of coasters for the purpose of easily removing articles from the apparatus. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Passetti by including a dispensing aperture to comprise an elongated half circle having a flat side and an arc side, wherein the flat side of the elongated half circle is perpendicular to a vertical axis of the stack of coasters in the housing, and wherein the flat side of the

elongated half circle is slightly longer than a diameter of the bottom coaster of the stack of coasters, as disclosed by Finkletaub et al., for the purpose of easily removing articles from the apparatus.

Regarding claim 6, Passetti in view of Finkletaub et al. discloses the apparatus of Claim 5. Furthermore, Finkletaub et al. discloses an apparatus wherein the arc side of the dispensing aperture prevents dispensing of any coaster other than the bottom coaster (see Figure 2).

Regarding claim 12, Passetti discloses the apparatus of Claim 1. As in the previous paragraphs, Finkletaub et al. discloses a housing comprising a cylindrical can having a diameter slightly larger than a diameter of the stack of coasters (see Figure 2).

10. Claims 8, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Passetti (USP 6,722,526) as in view of Pastva (USP 4,538,726) and in further view of Abe (USP 5,534,224).

Regarding claim 8, Passetti discloses the apparatus of Claim 1. Furthermore, he discloses the apparatus to comprise a top member removably fitted to the top of the housing (26). However, he does not disclose the top member having an underside facing into the interior of the housing. Pastva discloses an apparatus with a top member having an underside facing into the interior of the housing (see Figure 5) for the purpose of assembly (see column 8 line 27). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Passetti by including the top member to have an underside facing into the interior of the housing, as disclosed by Pastva, for the purpose of assembly.

Regarding claim 8, Passetti discloses the apparatus of Claim 1. Furthermore, he discloses the apparatus to comprise a top member removably fitted to the top of the housing (26). Passetti in view of Pastva disclose an apparatus with a top member having an underside facing into the interior of the housing (see Pastva Figure 5). However, neither disclose the underside to have a force member disposed thereon so the force member is disposed from the underside of the top member into the interior of the housing and so as to touch the stack of coasters and exert force on the stack of coasters and towards the bottom of the housing. Abe discloses a top member (20a) with an underside having a force member (31) disposed thereon so the force member is disposed from the underside of the top member into the interior of the housing and so as to touch the stack of coasters and exert force on the stack of coasters and towards the bottom of the housing for the purpose of pushing the uppermost article to be dispensed (USP column 9 lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Passetti by including the underside to have a force member disposed thereon so the force member is disposed from the underside of the top member into the interior of the housing and so as to touch the stack of coasters and exert force on the stack of coasters and towards the bottom of the housing, as disclosed by Abe, for the purpose of pushing the uppermost article to be dispensed.

Regarding claim 14, Passetti discloses the method of Claim 13. Furthermore, he discloses fitting a top member onto the top of the housing. However, he does not disclose the top member to have a force member disposed on the underside of the top

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member and into the interior of the housing so as to touch the stack of coasters and to exert force on the stack of coasters with the force directed towards the bottom of the housing. Abe discloses a top member (20a) with an underside having a force member (31) disposed thereon so the force member is disposed from the underside of the top member into the interior of the housing and so as to touch the stack of coasters and exert force on the stack of coasters and towards the bottom of the housing for the purpose of pushing the uppermost article to be dispensed (USP column 9 lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Passetti by including the underside to have a force member disposed thereon so the force member is disposed from the underside of the top member into the interior of the housing and so as to touch the stack of coasters and exert force on the stack of coasters and towards the bottom of the housing, as disclosed by Abe, for the purpose of pushing the uppermost article to be dispensed.

Regarding claim 15, Passetti in view of Abe disclose the method of Claim 14. Furthermore Passetti discloses a method causing the top member to be removable from the housing.

11. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Passetti (USP 6,722,526) in view of Abe (USP 5,534,224) and in further view of Cousseau (USP 6,779,675).

Regarding claim 9, Passetti in view of Abe disclose the apparatus of Claim 8, wherein the top member comprises an outside facing away from the housing (see Figure 4). However, neither includes the outside to comprise a pull ring for use in

removing the top member from the housing. Cousseau discloses an outside that includes a pull ring for use in removing the top member from the housing (see Figure 1) for the purpose of removing the lid (see column 4 lines 38-39). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Passeti by including a pull ring for use in removing the top member from the housing, as disclosed by Cousseau, for the purpose of removing the lid.

Regarding claim 16, Passeti in view of Abe disclose the method of Claim 15. However, neither discloses the top member to be removable by using a pull ring disposed on the outside of the top member. Cousseau discloses an outside that includes a pull ring for use in removing the top member from the housing (see Figure 1) for the purpose of removing the lid (see column 4 lines 38-39). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Passeti by including a pull ring for use in removing the top member from the housing, as disclosed by Cousseau, for the purpose of removing the lid.

12. Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Passeti (USP 6,722,526) in view of Power (USP 5,735,433).

Regarding claim 10, Passeti discloses the apparatus of Claim 1. However, he does not disclose the stack of coasters to be encompassed by a sleeve with a front perforation conforming to the size of the dispensing aperture and with a rear perforation conforming to the size of the pushing aperture. Power discloses a sleeve for the purpose of accommodation (column 6 lines 22-28). Therefore, it would have been obvious at the time of the applicant's invention to modify Passeti by including a sleeve

with a front perforation conforming to the size of the dispensing aperture and with a rear perforation conforming to the size of the pushing aperture, as disclosed by Power, for the purpose of accommodation.

Regarding claim 17, Passetti discloses the method of Claim 13. As previously stated, Power discloses a method causing the stack of coasters to be enveloped by a sleeve with a front perforation conforming to the size of the dispensing aperture and with a rear perforation conforming to the size of the pushing aperture.

13. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allina (USP 5,178,298) in view of Abe (USP 5,534,224).

Regarding claim 18, Allina discloses a coaster dispenser comprising a cylindrical can shaped substantially like a beverage can (see Figure 2) for holding at least a coaster (58). However, he does not disclose a cylindrical can having a dispensing aperture and a pushing aperture set near its bottom, and with the pushing aperture set opposite to the dispensing aperture, whereby using the pushing aperture to access and to push the coaster towards the dispensing aperture causes the coaster to be dispensed from the cylindrical can. Abe discloses an apparatus having a dispensing aperture and a pushing aperture set near its bottom (20e,c), and with the pushing aperture set opposite to the dispensing aperture, whereby using the pushing aperture to access and to push the coaster towards the dispensing aperture causes the coaster to be dispensed from the apparatus (see Figure 1B) for the purpose of permitting only the lowermost article to be dispensed (see column 8 lines 63-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to

modify Allina by including with cylindrical can having a dispensing aperture and a pushing aperture set near its bottom, and with the pushing aperture set opposite to the dispensing aperture, whereby using the pushing aperture to access and to push the coaster towards the dispensing aperture causes the coaster to be dispensed from the cylindrical can, as disclosed by Abe, for the purpose of permitting only the lowermost article to be dispensed.

Regarding claim 19, Allina in view of Abe disclose the coaster dispenser of Claim 18. Furthermore, Allina discloses a top member removably fitted to the top of the cylindrical can (38) for access to replenish coasters held in the cylindrical can.

Regarding claim 20, Allina in view of Abe disclose the coaster dispenser of Claim 19, wherein the top member comprises an underside facing the interior of the cylindrical can, and wherein a force member is disposed on the underside of the top so as to be disposed into the interior of the cylindrical can and to exert force on coasters in the cylindrical can with the force directed towards the bottom of the housing (see Allina 38 or Abe 31).

14. Regarding the elements in the previous claims the MPEP states:

§ 2115 [R-2] Material or Article Worked Upon by Apparatus

MATERIAL OR ARTICLE WORKED UPON DOES NOT LIMIT

APPARATUS CLAIMS

“Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim.” Ex parte Thibault, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, “[i]nclusion of material or

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article worked upon by a structure being claimed does not impart patentability to the claims."

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Collins whose telephone number is (571) 272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.C.
5/11/2006


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